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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,268	06/29/2001	Arne W. Ballantine	10964-057001 / PP 765	8057
26161	7590	01/25/2005	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110				MARTIN, ANGELA J
ART UNIT		PAPER NUMBER		
1745				

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	Applicant(s)	
09/896,268	BALLANTINE ET AL.	
Examiner	Art Unit	
Angela J. Martin	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 10 November 2004.  
2a) This action is FINAL.                    2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1,7-10,12-38 and 60-89 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_\_ is/are allowed.  
6) Claim(s) 1,7-10,12-23 and 60-89 is/are rejected.  
7) Claim(s) 24-38 is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
    1. Certified copies of the priority documents have been received.  
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.  
4) Interview Summary (PTO-413)  
    Paper No(s)/Mail Date \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

## DETAILED ACTION

This Office Action is responsive to the Amendment filed on November 10, 2004. The Applicant has amended claims 1, 12, 15, 17-19, and 24; and canceled claims 11 and 59. Pending claims are 1, 7-10, 12-38, and 60-89. However, this rejection is made non-final for the following reasons of record.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 7-10, 12-23, and 60-89 are rejected under 35 U.S.C. 102(e) as being anticipated by Jones, U.S. Pat. No. 6,649,293 B1.

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Rejection of claims 1, 7-10, 12-23, 60-89 drawn to a method of operating a fuel cell system.

Jones teaches a method of operating a fuel cell system comprising monitoring an operating parameter associated with the fuel cell stack, adjusting a temperature of the stack based on the operating parameter, wherein adjusting the temperature comprises adjusting coolant through the stack (col. 2, lines 20-38), adjusting coolant flow comprises restricting coolant through the stack, the operating parameter is a power output from the system (col. 5, lines 8-30), the system further comprises a first end plate and the method further comprises heating the first end plate (col. 3, lines 4-8). It also teaches adjusting coolant flow further comprises unrestricting coolant flow through the stack (col. 5, lines 8-30); wherein restricting and unrestricting coolant flow are performed as a function of time (col. 4, lines 43-64). It teaches restricting and unrestricting coolant flow are performed to cause the operating parameter to be a predetermined level, wherein the predetermined level is within about 15% of an operating parameter under normal operation of the fuel cell system (col. 4, lines 43-64). In addition, it teaches the method is performed as a feedback loop (col. 2, lines 20-38). It teaches heating the first end plate (or second end plate)comprises heating a first heating element different than the end plate, which is adjacent to the end plate (col. 6, lines 9-19). It teaches flowing fluid through a flow channel defined by the first end plate, wherein the fluid is heated (col. 2, lines 20-38). It also teaches heating is electrical (col. 6, lines 9-36).

Thus, the claims are anticipated.

***Allowable Subject Matter***

3. Claims 24-38 allowed.
4. The following is an examiner's statement of reasons for allowance:

The Applicant claims a method of operating a fuel cell system comprising a fuel cell stack, the method comprising monitoring voltages of a set of fuel cells and restricting coolant flow through the stack when one or more of the predetermined voltages deviated from a predetermined voltage range.

The prior art of record does not disclose monitoring voltages of a set of fuel cells and restricting coolant flow through the stack when one or more of the predetermined voltages deviated from a predetermined voltage range.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela J. Martin whose telephone number is 571-272-1288. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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